

REMARKS

This Amendment and the following remarks are intended to fully respond to the Office Action mailed April 24, 2009, hereinafter "Office Action." In that office action, claims 1-12, 14-24, and 26-34 were examined and all claims were rejected. More specifically, claims 1, 7, 14, 19, 26, and 32, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Bird, claims 10-11 and 22-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Miralles and Bird, claims 2-4, 6, 15-16, 18, 27-29, and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen and Bird in further view of Miralles, and claims 5, 8-9, 17, 20, 30, and 33-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen and Bird in view of Wood. Entry of the above amendments, and reconsideration of the claim rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. Claims 1-12, 14-24, and 26-34 remain in the application.

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested.

In this Response, claims 1, 10, 14, 22, and 26, have been amended and no claims have been added or cancelled. Therefore claims 1-12, 14-24, and 26-34 remain present for examination.

No new matter has been introduced through any of these claim amendments.

A. **Rejection of Claims
 Under 35 U.S.C. §103(a)**

(i). Items 4 and 5 In The Office Action

All the claims were rejected under 35 USC § 103(a) as being anticipated by Chen in combination with other references. Applicant respectfully traverses the § 103(a) rejections of the claims because the Office Action failed to state a *prima facie* case of obviousness. Specifically, the references fail to teach all of the claimed elements. To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the references must teach all of the claimed elements to one of ordinary skill in the art at the time the invention was made. M.P.E.P §§ 2142, 2143.03.

Further, under *KSR Int'l Co. v. Teleflex, Inc.*, there “must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” 127 S. Ct. 1727, 1741 (2007).

Independent Claims 1, 14, and 26

Claims 1, 7, 14, 19, 26, and 32, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Bird. Applicant's traverse the § 103 rejection because the Office Action has failed to show that the cited references teach wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered, as recited in independent claim 1.

Chen is directed to providing hypermedia content maintained remotely on a network to a wireless device without a browser. However, Chen does not disclose or teach wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered.

Bird is directed towards methods and systems for bulk communication of information to recipients via multiple delivery media. The media includes facsimile, email, surface mail, SMS messaging, and archiving. (*See Bird, Abstract*). A single interface is used to receive information for distribution including one or more template documents and data specified to each recipient. At least one document is transmitted using a specified delivery media. However, the Office Action has not shown that Bird teaches wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered. For at least the foregoing reason, independent claim 1 is allowable over the cited references.

For at least similar reasons as discussed with respect to independent claim 1, independent claim 14 is also allowable over the cited references. Claim 14 recites, *inter alia*, wherein the response identifies the number of the two or more short messages that were unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered. Thus, claim 14 is also allowable over the cited references.

For at least similar reasons, independent claim 26 is also allowable. Claim 26 recites, inter alia, wherein the response identifies the number of the two or more short messages that were unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered.

Applicant likewise believes that dependent claims 7, 19, and 32, which include all of the limitations of independent claims 1, 14, and 26, are at least patentable over the Examiner's rejection based on Chen et al. further in view of the teaching of Gustafsson under 35 U.S.C. §103(a), and withdrawal of that rejection to these claims is respectfully requested.

Independent Claims 10 and 22

Claims 10-11 and 22-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Miralles and Bird. As previously discussed with respect to claims 1, 14, and 26, Chen and Bird, both individually and in combination, fail to teach wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered, as recited in independent claim 10.

Furthermore, Miralles fails to compensate for this deficiency. Miralles relates to transmitting short messages between a remote server and a mobile telephone user that is in communication with a short message service center via a GSM network. However, the Office Action does not show that Miralles teaches wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered. For at least this reason, independent claim 10 is allowable over the cited references.

For at least similar reasons, independent claim 22 is also allowable over the cited references. Independent claim 22 recites, inter alia, wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered. Thus, independent claim 22 is allowable over the cited references.

For at least the foregoing reasons, independent claims 1, 10, 14, 22, and 26 are allowable over the cited references. While the Office Action relied upon other references to reject some of the dependent claims, Applicants submit that the other references fail to compensate for the deficiencies of Chen, Bird, and Miralles. Thus, applicants respectfully request that the Examiner issue a notice of allowance at his earliest convenience. Furthermore, dependent claims 2-9, 11-12, 15-21, 23-24, and 27-34 depend from one of allowable claims 1, 10, 14, 22, and 26, and thus are allowable for at least the same reasons as discussed. Applicants therefore respectfully request that the Examiner issue a notice of allowance for all claims at his earliest convenience.

CONCLUSION:

This Amendment fully responds to the Office Action mailed on April 24, 2009. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

Thus, a bona-fide attempt has been made to ensure that the application meets all statutory requirements and is in condition for allowance. The Examiner's early indication to that effect is, therefore, courteously solicited. If a telephone conference would expedite allowance or resolve any additional questions, such a call is invited at the Examiner's convenience.

Applicant does not believe that any fees are due with this response. If this is not the case, please charge all required fees, or fees under 37 C.F.R. 1.17, or all required extension of time fees due, or credit any overpayment to, deposit account 13-2725. Please consider this a Petition For Extension Of Time for a sufficient number of months to enter this correspondence, or any future reply, if appropriate, for an extension of time for its timely submission.

Respectfully submitted,

/ René A. Pereyra /

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René A. Pereyra, Reg. 45,800
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
303.357.1637